

If Oswald Had Been Brought to Trial

Congressman Thomas N. Downing
U.S. House of Representatives
Washington, DC

"A paraffin test was made on Oswald's right cheek, and it turned out negative, indicating that he had probably not fired a rifle that day."

Remarks of the Honorable Thomas N. Downing to
the Virginia Commonwealth's Attorneys Association,
August 9, 1975.

The legislation that I have introduced over the past 16 1/2 years is usually limited to certain areas. Generally, they are matters in which the First Congressional District has a high degree of interest: Merchant Marine, port activities, shipbuilding, fisheries, space research, and national defense matters. In addition to these, there have always been certain areas of national priority in which I have tried to reflect the interests of the district.

I suppose that is why nobody seems to be able to understand why I introduced a resolution in April calling for the creation of a select committee of members of the House to study the circumstances surrounding the death of John F. Kennedy. It doesn't seem to fit my image. But if you will bear with me for a little while, I will try to explain it.

All So Unbelievable, Yet All So True

None of us will forget what happened in Dallas almost 12 years ago. I was as stunned as any American. Congress had adjourned and I had gone home for the week-end.

When I had the first news that the President had been shot, I prayed that it would not be fatal. And then I found myself in somewhat of a trauma for the next few days as word came of his death, the swearing-in of Lyndon B. Johnson, the plane ride back to Washington, the lying-in-state, and the sorrowful funeral procession ending at the grave with the eternal flame.

In the midst of all of it came the capture of Lee Harvey Oswald and his subsequent murder — live on television — by Jack Ruby in the basement of police headquarters in Dallas.

It was all so unbelievable, yet all so true.

No Way to Believe the Warren Commission

Then came the appointment of the President's Commission, chaired by Chief Justice Earl Warren. They investigated and reported, concluding that there was no evidence of conspiracy and that Lee Harvey Oswald, alone and unassisted, was responsible for the death of President Kennedy and the wounding of Governor John B. Connally of Texas. And there the matter was supposed to rest for all time.

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I did not believe it.

I did not believe that one man could have fired three shots in six seconds from a cheap, foreign made, single-shot-bolt-action rifle with the deadly accuracy credited by the FBI and the Warren Commission. No way.

The great majority of Americans, it seems, never believed it. Yet, except for a comparative few people, no one attempted to do anything about it. The Warren Commission was sacrosanct. Its members included, in addition to the Chief Justice of the United States, Senators Richard B. Russell of Georgia and John Sherman Cooper of Kentucky, Representatives Hale Boggs of Louisiana and Gerald R. Ford of Michigan, the former Director of the Central Intelligence Agency Allen Dulles, and the noted attorney and former high commissioner of Germany, John J. McCloy. Their position of eminence was bolstered by that of the chief investigative agency of the United States, the Federal Bureau of Investigation under its director, J. Edgar Hoover.

Extremely High Degree of Expertise

During the intervening years, a sizable group of experts about the assassination and the resulting investigation has developed. They include attorneys, physicians, college professors, former government investigators, and specialists in a number of fields. Many of them have extremely high degrees of expertise.

Among them is a young man named Robert Groden, who is particularly adept and imaginative in the field of optics. Groden obtained a copy of the eight millimeter color movie of the assassination taken by the late Abraham Zapruder, a Dallas dress manufacturer, who was in Dealey Plaza that day.

Enlarging each of the movie frames that showed the fatal shot to President Kennedy's head, Groden put them back in sequence at slow motion so that it is possible to view the event from a greater enhanced perspective than you would get in watching a home movie at normal speed. He has taken his film to a number of college campuses and appeared with it before thousands of students. He also had it on late night television twice earlier this year.

In April, students from the University of Virginia who had seen the presentation asked members of the Virginia delegation in the House to take a look at it. They brought Groden and the film to Washington, and I was one of five members who saw the presentation.

People Gasp at the Impact

It is difficult to explain in complete detail what the film shows, but you can see Kennedy grab his throat and start to lean forward after being shot high in the back. A second or two later, you see Connally's face distort, and he starts to crumple into his wife's lap. Then with the President bending forward with his head thrust slightly down, he suddenly bolts upright and backward as his head literally explodes. His body slams back against the back of the seat and then bounces to the left toward his wife.

I have seen this film shown a number of times since then, and there are always people in the group who gasp at the impact. My immediate conclusion was that he was hit from the right front, more than likely by someone who was firing from the so-called grassy knoll. I concluded that in all probability the Commission was wrong. There had to be more than one assassin.

It Is Time for the Truth

I waited several days and considered all the aspects. Then I introduced my resolution.

It went in originally with the cosponsorship of Bill Whitehurst and Herb Harris. I have reintroduced it on three other occasions, and now there are thirty sponsors in all with the promise of still additional support.

Nobody pressured me to introduce this resolution. Nobody even tried to persuade me. I did it because I believe that the American people have lived for almost twelve years following that terrible day in Dallas without knowing the truth, certainly without knowing the whole truth; and that in a time when we have had a great many other myths exploded and brought to light, it is time for the truth, the whole truth, to be known about what really happened to John F. Kennedy.

I am in no way trying to criticize the members of the Warren Commission. The American people, however, have faced terrible truths in the last few years, truths which few of us ever expected to have to face, and our nation has survived. I believe it is time that we bring this one out into the open.

Interesting Exercise for Prosecutors

As everyone in this country knows so well, Lee Harvey Oswald was never brought to trial. As literally millions of Americans watched on television, he was gunned down by Jack Ruby in the basement of the Dallas police station, less than 48 hours after the murder of John Kennedy. As a result, no prosecutor was faced with the problem of prosecuting Lee Harvey Oswald for the first degree murder of President Kennedy. However, it is a most interesting exercise for prosecutors to look at the theoretical situation with which a district attorney would be faced if Oswald had not been himself murdered and if he had been brought to trial.

As a prosecutor, what would you have going for you? In a warehouse building along the parade route, near the scene of the crime, the police found a Mannlicher-Carcano rifle which had been purchased through the mail by Oswald. Three cartridges which had been fired from the gun were found on the sixth floor of this warehouse, the Texas school book depository. A nearly perfect bullet which might have been fired from the Mannlicher-Carcano was found on

a stretcher in the hospital to which President Kennedy and Governor Connally were taken for emergency treatment. That, in essence, is all of the positive evidence linking the suspect to the crime.

But even this evidence has its weak spots. For example, there is no clear record, despite the fact that Oswald worked in the Texas school book depository, of how or when the gun was taken into the building. There is also considerable evidence that a second rifle, a 7.65 Mauser, was also taken from the building by the police. There is no way of knowing when the cartridges had been fired from the Mannlicher-Carcano; they could easily have been fired at an earlier time and placed in the building. Although the pristine bullet found in the hospital appears to have been fired from the gun, there is no clear evidence whatever as to how it got onto a stretcher in Parkland Hospital.

No Creditable Witness Found

And now let's look at what a defense attorney would have going for him in this same case.

1. Despite a multitude of people in Dealey Plaza, no creditable witness could be found who saw anyone firing a rifle. It should be noticed in passing that, despite this total lack of eye witnesses, a rather good physical description of the alleged murderer went out over the Dallas police radio 14 minutes after the last shot rang out. The description matched Lee Harvey Oswald, but no one has explained how the police at that time had any idea for whom they were looking.

2. The great majority of spectators believed that the shots came from in front of the President's car, from a place generally called the grassy knoll. The police officers riding alongside the presidential car dropped their motorcycles and rushed to this area.

3. Approximately 90 seconds after the last shot was fired, Lee Harvey Oswald was found on the second floor of the school book depository, drinking a coca cola. If, in fact, he was the assassin, in that 90 seconds he would have had to conceal his gun, cross the whole width of the large warehouse, descend five flights of stairs, find a dime, get his coca cola, open it, and calmly begin to drink it. This sounds more like a decathlon champion than Lee Harvey Oswald.

No Trace of Ammunition Source

4. The Mannlicher-Carcano is a very cheap (\$19.95), surplus World War II Italian carbine. It is a bolt action, single shot, fourth-rate gun, hardly the type that any serious assassin would even consider.

5. There is no trace of the source of the ammunition used in the murder. The Italians quit manufacturing ammunition for the Mannlicher-Carcano during the closing years of World War II. Any of this old ammunition would be highly unreliable. The only known source of new ammunition for the gun was the United States Government. It has never been determined from which source the assassin actually obtained the ammunition.

6. For the Mannlicher-Carcano to be fired three times in six seconds, the use of a clip is almost imperative. Yet, no clip was ever found.

7. The telescopic sight on the rifle was defective. At the range it was being fired in Dealey Plaza, it was off approximately eleven inches — an almost fatal flaw in itself under the circumstances.

Ballistics Test Inconclusive

8. The FBI's ballistic tests on the bullet fragments taken from President Kennedy, from Governor Connally, from the automobile, etc., were inconclusive. In effect, there was no positive ballistic evidence connecting the bullets with the alleged assassin's gun.

9. A paraffin test was made on Oswald's right cheek, and it turned out negative, indicating that he had probably not fired a rifle that day.

10. Oswald himself denied the killing.

Serious Constitutional Defects

On top of this rather hopeless evidential situation, you would also be faced with a number of most serious constitutional defects.

First and foremost, Oswald was questioned for a total of 13 hours during his 45 hour detention. Despite his requests for legal assistance, he was never furnished with a lawyer. Lawyers from the Civil Liberties Union who volunteered were turned away. Yet, the questioning went on. On top of that, the Dallas police force has given sworn testimony that there is not one scrap of evidence as to what Oswald said during the 13 hours of interrogation. According to the police, the Dallas police force did not own a tape recorder. Further, they did not even bother to have a stenographic record of the interrogation. More incredibly, they say no notes were taken. It is difficult to believe that any judge or jury — with the exception of the Warren Commission — would accept such statements as true.

Massive Tampering with Evidence

There was massive tampering with evidence. Despite a Dallas ordinance that an autopsy must be performed by the coroner in cases of violent death, no autopsy was performed in Dallas. Despite the protests of local authorities, the body of President Kennedy was forcibly removed to Bethesda, Maryland, where a grossly inadequate autopsy was performed by three military pathologists with little, if any, forensic experience. On top of this, the contemporaneous notes of the chief surgeon were later burned by him in the fireplace of his recreation room. He later swore that he did not think they were important. Many of the X-rays and photographs which would normally be taken during a competent autopsy were found not to exist.

The car in which the President was riding at the time of his death was completely dismantled by the secret service, and all evidence relating to it was destroyed.

Oswald's wife, who apparently had nothing to do with any crime, was held in "protective custody" for a number of months. For all practical purposes, she was held incommunicado.

I could go on and on with this list, but I think I have made my point that any prosecution of Lee Harvey Oswald would have been undermined by the most serious constitutional abuses.

New Problems

Until now, I have been discussing the problem of a prosecution of Oswald, not necessarily as the sole assassin of President Kennedy, but merely someone who may have played a role in the assassination. As we know, the Warren Commission insisted most strongly that Oswald was unassisted in his commission of the crime.

What new problems would be raised if it were necessary to prosecute Oswald as the lone-nut killer? Is there any way in which a prosecutor could convince a jury that he and he alone had committed the act?

Let us go back for a moment to the Zapruder film of which I spoke earlier. Knowing that the film in Mr. Zapruder's camera ran at 18.3 frames per second, it is possible to determine very accurately the time frame in which all the shooting took place. It is known — and the Warren Commission concurs — that 5.6 seconds elapsed between the first shot and the final shot which hit John Kennedy in the head. For practical purposes, let's round this off to six seconds. Now remember that this is a single shot, bolt action rifle. After each shot, a cartridge had to be ejected by the bolt, a new bullet put into place, and the gun reaimed. Some of the world's finest riflemen have practiced with the Mannlicher-Carcano, but none have been able to reload, reaim, and fire accurately in less than three seconds. This means that in the time frame for the firing, a maximum of three shots could have been fired from the Mannlicher-Carcano, the initial shot plus two reloads.

The "Magic Bullet"

Realizing these limitations, and insisting that only a single gunman was involved, the Warren Commission insisted that all of the damage done during the fusillade was done by three shots. The Warren Commission admits that one shot missed the target completely, striking the street curb. One shot hit President Kennedy in the head and disintegrated. That left only one shot which, for convenience sake, has often been labeled the "magic bullet."

According to the Commission, this shot entered President Kennedy's back, exited his adam's apple, went through Governor Connally's chest, broke a rib, went through Connally's wrist shattering it, and wound up in his thigh. This is the bullet which allegedly was found undamaged on a stretcher in Parkland Hospital.

If the "magic bullet" is central to the whole contention that Oswald was a lone-nut killer, let's examine its feasibility.

There Must Have Been Four Shots

If the shots fired by the murderer came from the sixth floor window of the school book depository, their course would have been downward and to the left. If a bullet had entered the President's back and exited his adam's apple, it should have either hit Mrs. Connally, who was sitting in front of the President and to the left, or harmlessly struck the side or floor of the car. To have hit Governor Connally on his right side, when he was sitting directly in front of the President, the bullet would have to have made two 90 degree turns in mid air. From this evidence alone, it can be deduced that Governor Connally was not gravely injured by any of

the bullets which struck President Kennedy, something which Governor Connally insists to this day. Furthermore, the "magic bullet" that was taken from the stretcher was pristine. The only lead missing from it was that removed by the FBI for tests. Yet, a great deal of lead was left in Governor Connally's chest and wrist when the bullet that struck him struck bone.

From this mass of evidence, all serious critics, including a number of eminent pathologists, criminologists, and lawyers, have concluded that there must have been at least four shots at Dealey Plaza.

As no one has been able to fire the Mannlicher-Carcano four times in six seconds, we know that there was at least a second rifleman, if the Carcano was used in the killing. This means a conspiracy. This means that the Warren Commission was wrong on its central thesis.

FBI Willfully Withheld Evidence

There are a number of other very disturbing aspects to this matter which are of particular interest to prosecutors. A huge amount of vital evidence was withheld from the Warren Commission. Presumably, it would have been withheld from a prosecutor. The FBI was deeply involved with this withholding of evidence. As an example, the Dallas police turned over to the FBI an address book which belonged to Oswald. In it was one page which gave the name, address, telephone number, and license plate number of an FBI agent in Dallas. The FBI removed this page from the book before turning it over to the Warren Commission. Eventually, the Warren Commission got the page, but did not seem upset that it had been willfully withheld. The FBI also withheld most of the evidence which linked Jack Ruby to organized crime, to Cuban gamblers, to the narcotics trade, and, last but not least, to the FBI itself. It has only recently been discovered that Jack Ruby was formerly enrolled as an FBI informant for quite a period of time.

William George Gaudet

Time does not permit me to go into this matter as deeply as I would wish, but I would like to give you just one more example of this type of withholding and of what smacks of a serious cover-up. When Lee Harvey Oswald went to Mexico in September of 1963, he had to obtain a Mexican entry card from the Mexican consulate in New Orleans. These cards are numbered serially. After the murder, the FBI obtained from the Mexican consulate a list of all the persons who obtained entry permits in New Orleans on the same day that Oswald obtained his. The FBI did a massive investigation with respect to these people and published the results in detail in the volumes of evidence accompanying the Warren report. There was one small exception. The identity of the person who received his permit immediately ahead of Oswald was never made public.

In 1972, following a periodic review, a list of commission documents which had formerly been withheld was released. Among them was the missing information about the man who obtained the permit. He was William George Gaudet, who was based in New Orleans and traveled widely in Latin America in 1963. A previously withheld FBI report, dated coincidentally the day after Jack Ruby murdered Lee Harvey Oswald, says that William George Gaudet gave them details as to certain of Jack Ruby's activities, not in Dallas, but in New Orleans.

William George Gaudet has been interviewed. He admits that he did receive his entry permit immediately ahead of Oswald. He denies that he accompanied Oswald to Mexico. He also admits being a CIA operative from 1947 until 1969.

He says that he was guaranteed that his identity would never be made public and was quite irritated at the FBI for having revealed his name, even at this late date. He says emphatically that the FBI is lying when it says that he volunteered information about Jack Ruby in November of 1963.

Government Consent to Cover-Up

Lee Harvey Oswald certainly was no hero, and I am not trying to make him one. But I do not believe that he was the lone-nut assassin that the Warren Commission says he was. I do not know who was involved in the assassination of President Kennedy but I think it is time that all of us learned the truth. Our system of government cannot remain strong if our leaders can be murdered and the government itself consents to covering up the crime. □

LOUIS TACKWOOD: "I WAS ASSIGNED TO ASSASSINATE GEORGE JACKSON."

*David Williams
Assassination Information Bureau
63 Inman Street
Cambridge, MA 02139*

Louis Tackwood acknowledges that he was an informant and agent-provocateur for the Criminal Conspiracy Section (CCS) of the Los Angeles Police Department and the California State Bureau of Identification and Investigation (CSBII) for the past ten years. He took the witness stand recently in San Rafael, California, in the trial of the "San Quentin Six," Fleeta Drumgo, David Johnson, Hugo Pinell, Johnny Spain, Luis Talamantez, and Willie Tate (the former inmate). These five inmates and one former inmate face a series of charges stemming from the so-called "escape attempt" on August 21, 1971, of the black revolutionary and author, George Jackson. Three guards and two other inmates were killed along with Jackson in the alleged escape attempt.

Tackwood was questioned by Charles Garry, an attorney for one of the six defendants. He was asked, "Can you tell the Court and the jury what was your last completed assignment in the northern part of California?" Tackwood responded, "To assassinate George Jackson."

This testimony had immediate reverberations. The prosecutor objected to Tackwood's testimony being delivered in front of the jury (saying that Tackwood's statements were "not relevant"). But the prosecutor acknowledged that Tackwood had performed undercover work for the LAPD. This was contradicted by LAPD Commander Peter Hagen who denied that Tackwood had ever served as an undercover informer.

Tackwood has testified that both the CCS and the CSBII had designed plots to eliminate Jackson. The CCS plan called for Jackson to be killed by an informant and/or provocateur on August 23rd when Jackson was scheduled to be transferred from San Quentin. But, according to Tackwood, the CSBII apparently feared CCS incompetence and set the stage for Jackson's assassination two days ahead of schedule. Tackwood maintains that the San Quentin Six were framed and caught in the web of two official plots.

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